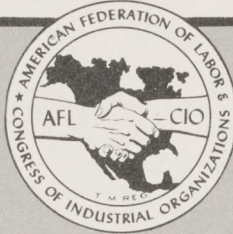


AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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TO: Norman Smith

February 2, 1960

FROM: Henry Anderson

SUBJECT: Meeting with representatives of Farm Placement Service, 1/1/60

Present: Messrs. Rucker, Schary, Johnson, Geary, Bainbridge, Lang, and Gubser, representing the California Farm Placement Service; Messrs. Smith, Krainock, Anderson, Delvo, Arellano, Aguilar, Seratt, and Tannehill, representing the AWOC.

The meeting convened at approximately 10:15 A.M., ~~adjourned~~^{recessed} for lunch at 12:35 P.M., reconvened at 1:50 P.M., and adjourned at 4:10 P.M.

Mr. Schary indicated that the Department of Employment representatives were interested largely, if not exclusively, in the domestic labor supply which the AWOC could refer to asparagus jobs -- under last year's wages and working conditions. Mr. Schary began by expressing the assumptions upon which the Department of Employment is proceeding: "The domestic supply of asparagus workers will continue to dwindle, as Filipinos grow older. There will be relatively few domestic replacements. We will therefore have to go with Mexican Nationals this year as we have in the past."

AWOC began its presentation by pointing out that before discussing labor supply it was appropriate to discuss labor requirements. We noted that estimates of labor needs in the asparagus harvest the past four or five years were far out of line with those in the middle '40's. The Farm Placement representatives were unconvinced, because (1) they questioned the validity of their own statistics; and (2) they felt San Joaquin asparagus beds were bearing more heavily now than they did 15 years ago. (Subsequent research has shown that this is not at all the case.)

We then began our remarks about labor supply by pointing out that this subject has no meaning whatsoever apart from wages and working conditions. The Farm Placement people, however, insisted that they had no influence over wages and working conditions. A lengthy discussion failed to shake their stubborn contention that they have no power under the "adverse affect" clause of Public Law 78. They claimed they are bound hand and foot by administrative regulations from Washington.

We were therefore virtually forced to limit the remainder of the discussion to certain aspects of Public Law 78, ~~and~~ the International Agreement, and the

Standard Work Contract, where, it would seem, no one could reasonably claim the letter of the law was unclear. The aspects of these legal documents which we covered, together with the conclusions we reached in each case, were as follows:

(1) Wage hold-backs: everyone agreed these were not bonuses at all, but wage hold-backs, which are prohibited by the Standard Work Contract. Any domestic who works for an employer who also employs braceros may demand payment in full ~~every~~ at least every two weeks. However, domestics who sign an agreement with a grower on their own, agreeing to the "bonus" system, will be bound by it.

(2) Itemization of hours, units, deductions, etc. The Farm Placement people said they would "take it up with the growers" (whom they are meeting today). They could see no reason why domestics shouldn't receive this privilege which is guaranteed braceros by Article 18 of the International Agreement. As for domestics who work for employers who do not use Nationals, their only recourse would be the Labor Commissioner.

(3) Payment of crew leaders. Domestics are referred to jobs at a stated wage. They may not be required to share that wage with non-producing personnel, such as crew leaders. If such a share is deducted without the domestics' consent, a ~~xxxx~~ complaint may be filed with the Farm Placement Office.

(4) Guarantee of three-fourths time work. The Farm Placement people were genuinely shocked that anyone should interpret the "standard hours of work" provision of Public Law 78 as applying to the standard hours of work provisions of the bracero's contract. Schary waved away our suggestion as "a purely theoretical question." The best that the others could do was to recommend that we see Mr. Robinson, counsel for the Bureau of Employment Security in San Francisco. An interesting ramification of the discussion was the revelation that the California Farm Placement Service is at least theoretically acting on the basis of John Carr's proposal of June, 1959: i.e., braceros should be guaranteed, not 32, but 40 hours of work per week.

(5) Provision of tools and supplies. No one saw any problem concerning types of equipment which are normally issued without charge to the bracero. When it came to respirators and goggles, which legally should be furnished Mexican Nationals, but in practice are usually not, Mr. Schary remarked, "We cannot be concerned with what should be."

(6) A day off per week, as guaranteed the Mexican National (Article 15, Standard Work Contract), was another totally unprecedented suggestion to our friends from the Farm Placement Service. Mr. Bainbridge ~~xxxxxxxx~~ ^{stated} that growers are already rotating their bracero crews so as to provide one day off per week for each man, and suggested they could do the same with domestics if the workers wished. He went on to suggest, astonishingly enough, that those who chose to work on what would otherwise be their day off should be entitled to premium pay -- i.e., time-and-a-half, or perhaps even double time. This much was concluded, concretely: no domestic could be discharged for taking one day off per week.

(7) Transportation. Any crew of domestics living in town may demand free transportation from a pick-up point convenient to them. Domestics who work as individuals or in two's or three's may also demand transportation if they can form ride "pools" the size of a normal crew.

(8) No domestics shall be required to live in single-male camps as a condition of employment.

(9) Sledding jobs. It was another bombshell to the Farm Placement people for us to suggest that the operation of asparagus tractors was a form of machine operation, and therefore prohibited anywhere in the State of California. They said that a previous year's "study" of this activity had concluded it was not mechanical. All they would promise was that they would take another look at the sledding operation. They promised even less when we asked what rate a domestic sledman would be paid when he worked with a bracero crew. Their logic: since braceros are not certified as sledmen, but as cutters, a domestic who replaced a bracero sledman would receive no more than a cutter.

(10) "Reasonable efforts." The Farm Placement Service spokesmen indicated asparagus was one of the crops in which they did not ask growers to do more than insert newspaper advertisements at the beginning of the season, since, as they put it, "There's no point in throwing money away throughout the season, when you know from past experience that nobody is going to be attracted." Among other points we made were the following: growers should publicize asparagus jobs by many other techniques besides newspaper advertisements; they should conduct these publicity campaigns in local areas where it is known many unemployed domestic farm workers live; their recruitment efforts should include a detailed account of the wages and working conditions being offered; out-of-area recruiting should be required. Although we got no commitments, the FPS people seemed to feel these were reasonable requests, and, in one respect, went beyond what we asked: we were asked if we would like to prepare the copy for the type of handbill, poster, or whatnot, which we believed most desirable. We accepted this opportunity with pleasure.

(11) Free choice of employment. Until quite recently, Farm Placement offices in Stockton and many other areas have made it a practice to refer domestic applicants to the local bracero-users' association. The interests of these associations being what they are, in a great many cases, domestics have been sent out to the least desirable jobs, the farthest away, and have been discouraged and harrassed in such ways that they have often given up altogether. We are now assured by the Farm Placement representatives that domestics will not be referred to the association, but will be referred to specific jobs. We are assured, furthermore, that these will be the most desirable jobs. On the question of who decides what is desirable and what is undesirable, however, the Farm Placement people became very evasive. I am inclined to imagine that they will reserve the right to say "no," for example, if large numbers of union members were to ask to be sent to a particularly notorious grower's holdings. In other words, I rather doubt that the Farm Placement Service will allow its offices to be used for the purpose of "setting up" an employer for an organizational push or work stoppage. (But it's worth trying.)

(12) The Farm Placement spokesmen stated that a crew leader or contractor will no longer be considered the employer, for purposes of enforcing rights of domestics as outlined above. Nor will the association be considered the legal employer. The grower is going to have to assume more responsibilities in this regard than he has ever had to assume before. For example, let us say a crew leader named Pedro Agbulos recruits 15 domestics to work on Rindge Tract, on some of the Hayes-Rule Company's several thousand acres of asparagus. Mr. Agbulos, of course, has an all-domestic crew. So long as he is considered the

(17) Grower will be considered employer, rather than contractor, for purpose of enforcing PL 78 guarantees to domestics.

(18) Domestics can ask to be referred to most desirable jobs.

employer, none of the guarantees outlined above come into effect. But if the Hayes-Rule Company is regarded as the employer, all guarantees stemming from the bracero program apply in full, since ~~the~~ Hayes and Rule employ a great many braceros in their other asparagus beds.

(13) We asked whether the apprenticeship provision of the braceros' standard work contract could be applied to domestics if they so desired. Mr. Geary stated that he makes every effort to discourage bracero-users from employing Article 4 at any time, and has never referred domestics at anything less than the journeyman rate. Other members of the Farm Placement team stated that on past occasions when growers have offered a guarantee of, say, 75¢ per hour during a training period, that domestics attracted by the offer have quit as soon as the training period was over.

(14) It would appear that a more satisfactory approach to the problem of apprenticeship and training lies in the Adult Education courses which we discussed at considerable length. Mr. Schary and others from the Farm Placement group had no objections to such a plan -- so long as it was viewed in extremely general and long-range terms. They evidently found it impossible to believe that systematic courses of instruction and organization of asparagus cutters could have any relevance to this year's labor needs and supplies. Mr. Johnson seemed more alert and sympathetic to the possibilities than any of the other Farm Placement people, but he, like the others, envisaged the courses as being conducted largely by the Farm and Home Adviser of the Agricultural Extension Service in each area. None was willing to concede that the Farm Placement Service had any responsibility for leadership.

(15) Under our prodding, the Farm Placement representatives admitted that braceros, in theory at least, enjoy what amounts to an hourly guarantee even while working at piece rates. The guarantee does not apply to discrete pay periods, but to the entire season. In asparagus, for example, the local compliance officer is supposed to inspect the payrolls of bracero-users to see that bracero cutting crews, ~~averaging~~ taking the season as a whole, averaged piece rate earnings as high as the average hourly earnings in the area. A bracero asparagus crew which worked 1,000 hours between March 1 and June 15 would therefore be expected to have made ^{at least} \$1,000 per man, before deductions. We were told that in cases where this "target rate" was not met, the employer was required to make up the difference through supplementary checks to each bracero. Mr. Geary said, "We wouldn't try to kid you. The compliance man doesn't have time to check more than a few payrolls." But at least the principle exists. The question then becomes: are domestics protected by this same "target rate" concept, under the terms of Section 503 (3) of Public Law 78? The Farm Placement people betrayed considerable embarrassment on this point. They had to admit that the concept had never been extended to domestics who remained on the job throughout the season, but they could give no reason why it had not been or should not be. In my judgment, the reasons are two: (a) domestics have never been aware that such a principle existed; and (b) under previous payment practices, domestics have never been able to translate their seasonal earnings into an hourly wage equivalent. Both of these reasons can be removed this year.

(16) Toward the end of the discussion, the Farm Placement representatives returned to the point with which they had begun: how many domestics did the AWOC believe would be available for asparagus work under last season's scale? When we noted that ~~we~~ that it was not our business to recruit workers for substandard jobs, Mr. Bainbridge and Mr. Geary rephrased their question. Did

we know of any domestics who would do asparagus work if the starting wage were the same as last year's? It seemed that the following implication was being offered: get enough domestics out in the fields, and you will be able to drive last year's wages up *by traditional labor union techniques.*

(17) We touched briefly upon the Farm Placement Service's policy toward work stoppages. I gather there are two major operational procedures: (a) no new workers, either foreign or domestic, are referred to a job where there is a labor dispute; (b) according to a Department of Labor ruling, however, Mexican Nationals are not removed except in cases of a "substantial work stoppage." It is the second of these two policies, apparently, which has lead to ^{much of} the enmity of UPWA and NAWU toward the government agencies. If, for example, 300 braceros and 25 domestics are working on a given ranch, nothing that the domestics can do, however united they may be, will constitute a "substantial work stoppage." Our Farm Placement friends did not indicate where the line would be drawn, but I suppose that so long as a ~~farmer~~ grower is able to continue his operations with the workers already on hand, no stoppage can be considered "substantial." Perhaps this is one of the reasons many growers load up with more braceros than they need, early in the season.

(18) Mr. Geary dropped a broad hint that we could influence the "prevailing wage" routine if we were able to present to the Farm Placement Office concrete evidence that domestics had been making higher wages than were turned up in the FPS sample survey. For example, it is standard operating procedure that the opening rate cannot be lower than the highest "prevailing rate" the ~~prev~~ious year. The growers will doubtless begin by offering \$.90 - 1.25 per crate for market asparagus: the same as last year. But if we could prove that some crews of domestics had been paid more than \$1.25 per crate last year, ~~the~~ at one time or another during the market season, the opening rate this year would have to be adjusted upward.

(19) Although domestics may go directly to any employer of Mexican Nationals and ask for a job, and expect to be given one, the Farm Placement spokesmen suggested strongly that domestics go through a FPS offices in order to be able to call on the enforcement power of the government. In either event, complaint forms must be filled out in FPS offices before grievances can be handled.

I draw the following generalizations and conclusions, among others, from the February 1 discussions with the Farm Placement Service representatives:

(1) Mr. Schary is more hostile toward domestic farm workers and their interests than any other government representative I have ever met, and I include the former Chief of the Service. He gave every appearance of feeling that he was wasting his time with us, and offered nothing to the conversation but critical and negative comment. For example, he said he would be "naive" to place any particular credence in the signatures we might get from domestics interested in asparagus cutting or in a farm labor school. I see trouble ahead in our dealings with Mr. Schary and the underlings whom he directs: Mr. Lang and Mr. Bainbridge. Fortunately, Mr. Schary is ^{usually} not the last court of appeal, but difficulties will arise from the fact we must go through the lower courts before reaching the ear of Mr. Tieburg or Mr. Perluss.

(2) We ~~will~~ are already able to offer domestic farm workers considerably greater inducements to enter the asparagus harvest than they have ever had before. Points 1, 2, 3, 5, 6, 7, 8, 11, and 12, taken together, make up a package which may be attractive to a number of domestics, if we are able to explain its significance.

(3) Points 4, 9, and 15 are even more important, but before we can include them in our package, we must press quickly and forcefully for formal opinions from the legal staff of the Bureau of Employment Security. If these opinions are of the nature which reason seems to dictate, we will be able to offer potential asparagus cutters something unique in agriculture, and rare in any industry: a guaranteed seasonal wage.

(4) Several of our basic recommendations concerning asparagus wages and working conditions are matters which the Farm Placement Service will adamantly refuse to touch. I still insist that this State agency could quite properly move in any of these dimensions, as the Washington State Department of Employment has done under the "adverse affect" clause. But the solid wall of resistance we encountered on this point gives me no hope that California is going to abandon its pretense of powerlessness, and its insistence on passing the buck to the Bureau of Employment Security.

(5) Such things as culling procedures, assessment of fields, and piece rate structures are therefore to be changed only through negotiations between worker and employer representatives. The first problem, of course, is that employer representatives do not recognize the existence of worker representatives. To bring about this recognition is the most important -- and the most difficult -- task.

(6) If properly developed, classes for neophyte asparagus cutters can be an invaluable lever. They will destroy growers' claims that domestics are indolent, unreliable, and the like. They will ~~enable~~ enable cutters to increase their earnings without increasing their energy expended, through a number of "tricks of the trade." But, by far the most important, they will create a new sense of self-worth and mutual awareness among domestic agricultural workers. And these are the vital ingredients of successful organization. Although the Adult Education Department will not, needless to say, permit its classes to be turned into union classes, they can and should be used as a starting point for this purpose. There is nothing in the world to prevent an asparagus cutters' class from meeting in one of the member's homes after the end of school!

(7) If the Farm Placement Service means what it says about domestics now limiting their availability (see #11 above), it becomes possible, theoretically, to "pick off" the major growers, one by one. Let us assume De Candia Farms, with 4,151 acres of delta asparagus, employs 600 workers. In the past, probably 90% of those workers have been braceros. If the remaining 10% were to strike, there would be no "substantial work stoppage," and De Candia would bring in the crop with the remaining 540 workers. But if the union were to send out 300 domestics, a few at a time, to work in De Candia's asparagus, a strike by these domestics obviously would constitute a "substantial" labor disturbance, and the 300 remaining Nationals would have to be removed. Now, it is quite possible that the other growers would try to bail De Candia out, while his asparagus went to hell, rather than letting him deal with the union. But De Candia alone produces

13% of all the delta asparagus grown in San Joaquin County -- which would represent quite a bit of "bailing out. And, aside from the limits imposed by our own numbers, there is nothing to prevent the union from doing the same thing with other corporation growers. Eight companies (De Candia; Hayes & Rule; Zuckerman-Mandeville; Ensher, Alex & Barsom; Zuckerman Farms; Sun Garden Packing Co.; Western California Cannery; and K.R. Nutting Co.) grow more than 50% of all the county's delta asparagus. Could the industry stand fast against concerted action directed at all eight of them simultaneously?

(8) We were invited, in so many words, to write the asparagus growers' recruiting materials for them. We should follow up this invitation as rapidly as possible. The wording should stress the relative stability of asparagus work, and the concessions we have already won which make it a good more attractive than it may have been in the past.

(9) Although I do not agree with the FPS people's claim that they have no influence over wages, I agree that it would be unfortunate if we were to turn over this responsibility wholly or in principal part to the government. In the last analysis, we will achieve decent wages and working conditions for farm workers ^{only} if we and they deserve it; we and they will deserve it only if we and they earn it through monumental hard work and self-discipline.

(10) The term "self-discipline" suggests to me the need to develop people who will stay on the job -- or stay off the job -- as long as is necessary to realize the goals of organization. I foresee that one of our major problems is apt to be workers who go into asparagus cutting early in the season, when there is no other agricultural work to speak of, but drift away when cherries and other crops come in. We should stress the fact that staying on the job throughout the entire asparagus season will in all probability yield higher earnings than flitting about from crop to crop. Daily earnings in asparagus may not be as high as those in cherries, for example, but the work is steady. The Prevatt's earned as much as \$35.20 in a single day of cherry picking, but their total earnings for the 53 day season were \$545.06. If they had plugged away at asparagus during the same period, at \$1 per hour, they would have made approximately \$840.

(11) There should be no indiscriminate "bumping" of Mexican Nationals, for two reasons: (a) this tends to produce an undisciplined domestic labor force, which feels the world owes it a living, regardless of its performance; and (b) our resources are not going to be so great that we can afford to expend them at random. Every domestic asparagus cutter whom we recruit, train, or send out to a field this year should be recruited, trained, or dispatched with a purpose. Everything we do, however small, must be part of a well thought out, over-all plan.

(12) There are rich possibilities in the forthcoming asparagus season not only to organize a working force of capable domestic asparagus ~~workers~~ cutters, but also to organize a working force of capable organizers. Our AWOC representatives have never yet been tested in a meaningful crucible. There has been a good deal of pointless sitting around in the office; there has been a good deal of pointless riding around in automobiles. Our organizers are going to have to put all of that behind them. For the next four or five months, they should be expected to spend all day and much of the night, every day and night, in the places where agricultural workers and potential agricultural workers live or congregate. They should be explaining, persuading, demonstrating, cajoling, leading -- in a word, organizing. If they are unable or unwilling to do these things, either because they are too diffident, too undisciplined, or too fond of ease, then they are not organizers, and should be replaced by persons who are able to meet the extremely exacting demands of this unique profession.